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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------|-------------|-----------------------|---------------------|------------------|
| 09/771,926 | 01/30/2001 | Robert Raymond Sealey | 95-454 | 9079 |
| 23164 | 7590 | 11/03/2004 | EXAMINER | |
| LEON R TURKEVICH | | | PHAN, JOSEPH T | |
| 2000 M STREET NW | | | ART UNIT | |
| 7TH FLOOR | | | PAPER NUMBER | |
| WASHINGTON, DC 200363307 | | | 2645 | |

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/771,926 | SEALEY ET AL. |
| | Examiner | Art Unit |
| | Joseph T Phan | 2645 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 July 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-25 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1, 6-8, 12, 17-19, and 24-25 rejected under 35 U.S.C. 102(e) as being anticipated by Picard et al., Patent #6,233,318.**
2. **Claims 1, 12 and 19 rejected under 35 U.S.C. 102(e) as being anticipated by Luzeski et al., Patent #6,301,245**

Regarding claims 1, 12, and 19 Picard teaches a means, method, and computer readable medium in a user computer for sending a voice message, the method and computer comprising:

means for recording by an executable browser plug-in resource a voice message spoken by a calling party based on encoding parameters recognized by a voice messaging system configured for storing voice messages for a plurality of voice messaging subscribers (Fig.11,col.3 lines 60-67, and col.19 lines 1-25)
means for storing the voice message within a data file having a selectable Multipurpose Internet Mail Extension (MIME) type recognizable by the voice messaging system as a voice message(col.8 lines 42-54 and col.13 lines 35-67); and

means for outputting the data file using a prescribed messaging protocol for transfer to a destination voice mailbox accessible by the voice messaging system for a corresponding one of the voice messaging subscribers distinct from the calling party (col.8 lines 42-54 and col.13 lines 35-67).

Regarding claims 6, 17, and 24, Picard teaches the method, means, and medium of claims 1,12, and 21 wherein the outputting step includes outputting the data file using an executable e-mail client configured for sending the data file using a prescribed e-mail protocol as the prescribed messaging protocol (col.8 lines 42-54 and col.13 lines 35-67).

Regarding claims 7, 18, and 25, Picard teaches the method, means, and medium of claims 6, 17, and 24 wherein the outputting step includes outputting the data file to the destination voice mailbox according to one of SMTP protocol and IMAP protocol (col.13 lines 41-67 and col.14 lines 37-43).

Regarding claim 8, Picard teaches a user computer comprising:
a recorder configured for recording a voice message input by a user according to selected encoding parameters recognized by a voice messaging system configured for storing voice messages for a plurality of voice messaging subscribers , the recorder configured for storing the voice message as a data file having a selectable MIME type recognizable by the voice messaging system as a voice message (col.8 lines 42-54 and col.13 lines 35-67) and an e-mail client configured for sending the data file to a destination voice mailbox for one of the voice messaging subscribers distinct from the user, using a prescribed messaging protocol, enabling access by the voice messaging

system for the corresponding one voice messaging subscriber (col.8 lines 42-54 and col.13 lines 35-67).

2. Claims 1, 12 and 19 rejected under 35 U.S.C. 102(e) as being anticipated by Luzeski et al., Patent #6,301,245

Regarding claims 1, 12, and 19 Luzeski teaches a means, method, and computer readable medium in a user computer for sending a voice message, the method and computer comprising:

means for recording by an executable browser plug-in resource a voice message spoken by a calling party based on encoding parameters recognized by a voice messaging system configured for storing voice messages for a plurality of voice messaging subscribers (22N Fig.3)

means for storing the voice message within a data file having a selectable Multipurpose Internet Mail Extension (MIME) type recognizable by the voice messaging system as a voice message (col.20 lines 32-38 and col.24 lines 10-14; *MIME is standard when attaching voicemail with email to transmit over the internet*); and

means for outputting the data file using a prescribed messaging protocol for transfer to a destination voice mailbox accessible by the voice messaging system for a corresponding one of the voice messaging subscribers distinct from the calling party (col.21 lines 20-43).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 9-11, 13-16, and 20-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Picard in view of Luzeski et al., Patent #6,301,245.

Regarding claims 2-5, 9-11, 13-16, and 20-23, Picard discloses the method, means, and computer readable medium of claims 1, 8, 12, and 19 and using an executable browser plug-in resource.

Picard is silent on the recording step which includes encoding the voice message using mu-law encoding at an encoding rate of 8 kHz according to one of G.711, G.729, and GSM encoding protocols.

However Picard's system records and sends voice files over the internet (col.8 lines 42-54 and col.13 lines 35-67) and per applicant's specification (page 9 lines 21-26) and per Newton's telecom dictionary 1998 (*see attached definitions of G standards*), G.711, G.729, and GSM are standards set by the ITU committee and therefore one of ordinary skill in the art would have been motivated to use these standards of encoding voice messages at a rate of 8 kHz.

Furthermore, Luzeski, Patent #6,301,245 discloses encoding a voice message for sending over the Internet Protocol using mu-law encoding at a rate of 8 kHz according to one of G.711, G.729, and GSM encoding protocols (Luzeski, appendix of col.24 lines 41-48). Combining Luzeski's teaching with Picard is also an obvious modification since both inventions discloses encoding and transferring voice over the internet.

Regarding claims 4, 15, and 22, Picard in view of Luzeski teaches the method, means, and medium of claims 3, 14, and 21 wherein the storing step includes generating a MIME extension recognizable by the voice messaging system and based on the one encoding protocol utilized by the executable browser plug-in resource (col.8 lines 42-54 and col.13 lines 35-67).

Regarding claims 5, 16, and 23, Picard in view of Luzeski teaches the method, means, and medium of claims 3, 14, and 21 further comprising reviewing the voice message by the executable browser plug-in resource prior to the outputting step (col.8 lines 42-54 and col.13 lines 35-67).

Regarding claim 11, Picard in view of Luzeski teaches the user computer of claim 9, wherein the recorder selects the MIME type for the data file based on the one encoding protocol used to encode the voice message (col.8 lines 42-54 and col.13 lines 35-67).

Response to Arguments

4. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T Phan whose telephone number is 703-305-3206. The examiner can normally be reached on M-TH 9:00-6:30, in every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTP
October 19, 2004

JTP

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